

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

No. CIV 09-0315 LH/LAM
CR 06-2263 LH

OSCAR PROVENCIO-SANDOVAL,

Defendant/Movant.

ORDER

THIS MATTER is before the Court on Defendant/Movant's *Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence by a Person in Federal Custody* (CV Doc. 1; CR Doc. 61), *Motion For Leave To Amend § 2255 Motion* (CV Doc. 2; CR Doc. 62), and *Motion For Waiver Of Three Copy Rule* (CV Doc. 3; CR Doc. 63), all filed on March 30, 2009. The *Motion For Leave To Amend § 2255 Motion* will be denied as moot at this time, *see* Fed. R. Civ. P. 15(a)(1) (allowing amended complaint "as a matter of course . . . before being served with a responsive pleading"), and the *Motion For Waiver Of Three Copy Rule* will be granted, *see* D.N.M.LR-Civ. 1.7, 5.1(a)-5.2. Pursuant to 28 U.S.C. § 2255 R.4(b), the Court will order an answer to Defendant/Movant's § 2255 motion.

IT IS THEREFORE ORDERED that Defendant/Movant's *Motion For Leave To Amend § 2255 Motion* (CV Doc. 2; CR Doc. 62) is **DENIED as moot** at this time, and Defendant/Movant can file an amended § 2255 Motion without leave of Court, **as long as he files it before** a response is filed by the United States.

IT IS FURTHER ORDERED that Defendant/Movant's his *Motion For Waiver Of Three Copy Rule* (CV Doc. 3; CR Doc. 63) is **GRANTED** and Defendant/Movant is allowed to file only a single copy of his pleadings, rather than an original and two copies.

IT IS FURTHER ORDERED that the Clerk shall forward to the United States Attorney a copy of Defendant/Movant's *Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence* (CV Doc. 1; CR Doc. 61), and any amendments thereto, and supporting papers and exhibits, if any, together with a copy of this Order;

IT IS FURTHER ORDERED that, **within twenty-three days** from entry of this Order, the United States answer Defendant/Movant's *Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence* (CV Doc. 1; CR Doc. 61).

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE